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October 15, 2019

Via ECF Filing and
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Hon. Frederick J. Scullin, Jr.
James M. Hanley Federal Building
100 South Clinton Street
Syracuse, New York 13261-7255

Re: Cachet Financial Services v. MYPAYROLLHR, LLC; Michael Mann; et al.
Civil Action No. 19-CV-1181

Dear Judge Scullin:

I participated in a teleconference on October 10, 2019 to address plaintiff's request for a TRO and Preliminary Injunction in this case. I had just been retained that morning on behalf of C. David Rhoades as Receiver of Southwestern Payroll Services, Inc., an Oklahoma corporation. Southwestern Payroll Services, Inc. ("Southwestern") is a defendant in this action. Unfortunately, I did not have sufficient time to thoroughly review plaintiff's papers submitted in request for its application for the TRO and Preliminary Injunction and focused primarily on its request for a TRO and Preliminary Injunction as it related to a freezing of the various bank accounts listed in its application. I indicated at the time that we had no objection to the TRO and Preliminary Injunction with respect to the restraint of the assets in any bank account controlled by Michael Mann or MYPAYROLLHR, LLC.

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However, the Order to Show Cause also seeks an Order of Attachment under New York Law. Upon further review of plaintiff's application, I believe its request for an attachment at this stage is premature and therefore object to the course granting an Order of Attachment at this point. It seems to me that the restraint on the accounts is sufficient to safe guard the assets in question. There well may be other claimants, including Southwestern, that will assert provable claims to some of these assets. For example, Southwestern which did not use the services of Cachet Bank, has already identified that some of its clients' tax funds have been deposited into Pioneer Savings Bank account number ending in 2440.

The grounds for attachment set forth in New York CPLR §6201(3) indicate that an Order of Attachment may be granted when the defendant, "with intent to defraud its creditors or frustrate the enforcement of a judgment that might be rendered in plaintiff's favor, has assigned, disposed of, encumbered or secreted property or removed it from the estate or is about to do any of these acts". It is submitted that the accounts in question do not meet that standard because they have not been secreted or removed from the estate. In point of fact, the principal defendant Michael Mann has consented to the restraint against the accounts and that should be sufficient to protect all parties at the onset of this litigation.

For the foregoing reasons, while Southwestern has consented to the TRO and Preliminary Injunction in so far as it applies to the restraining of these accounts it does object to the further relief of granting an attachment of the assets listed in its application. Any final determination on the request for an Order of Attachment should be deferred until the hearing on Cachet's motion on December 4, 2019.

Thank you for your consideration.

Very truly yours,

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